

UNITED STATES DISTRICT COURT

for the

District of Columbia

United States of America

v.

Josiah Kenyon

DOB: XXXXXX

Defendant(s)

)
)
)
)
)
)
)

Case: 1:21-mj-00666

Assigned To : Faruqi, Zia M.

Assign. Date : 11/23/2021

Description: COMPLAINT W/ ARREST WARRANT

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of January 6, 2021 in the county of in the
in the District of Columbia, the defendant(s) violated:

*Code Section**Offense Description*

18 U.S.C. § 231(a)(3)

18 U.S.C. § 1361

18 U.S.C. § 111(a)(1) and (b)

18 U.S.C. § 1752(a)(1) and (2)

40 U.S.C. § 5104(e)(2)(D) and (F)

This criminal complaint is based on these facts:

See attached statement of facts.

☒ Continued on the attached sheet.*Complainant's signature*

Special Agent

Printed name and title

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1
by telephone.

Date: 11/23/2021

Zia M. Faruqi

2021.11.23

20:02:04 -05'00'

Judge's signature

City and state: Washington, D.C.

Zia M. Faruqi, U.S. Magistrate Judge

Printed name and title

STATEMENT OF FACTS

I, [REDACTED] is a Special Agent assigned to the Federal Bureau of Investigation's ("FBI") Washington Field Office ("WFO"). Currently, I am tasked with investigating criminal activity in and around the U.S. Capitol grounds on January 6, 2021. As a Special Agent, I am authorized by law or by a Government agency to engage in or supervise the prevention, detention, investigation, or prosecution of a violation of Federal criminal laws.

The U.S. Capitol is secured 24 hours a day by U.S. Capitol Police. Restrictions around the U.S. Capitol include permanent and temporary security barriers and posts manned by U.S. Capitol Police. Only authorized people with appropriate identification were allowed access inside the U.S. Capitol. On January 6, 2021, the exterior plaza of the U.S. Capitol was also closed to members of the public.

On January 6, 2021, a joint session of the United States Congress convened at the U.S. Capitol, which is located at First Street, SE, in Washington, D.C. During the joint session, elected members of the United States House of Representatives and the United States Senate were meeting in separate chambers of the U.S. Capitol to certify the vote count of the Electoral College of the 2020 Presidential Election, which had taken place on November 3, 2020. The joint session began at approximately 1:00 p.m. Shortly thereafter, by approximately 1:30 p.m., the House and Senate adjourned to separate chambers to resolve a particular objection. Vice President Mike Pence was present and presiding, first in the joint session, and then in the Senate chamber.

As the proceedings continued in both the House and the Senate, and with Vice President Mike Pence present and presiding over the Senate, a large crowd gathered outside the U.S. Capitol. As noted above, temporary and permanent barricades were in place around the exterior of the U.S. Capitol building, and U.S. Capitol Police were present and attempting to keep the crowd away from the U.S. Capitol building and the proceedings underway inside.

At such time, the certification proceedings were still underway, and the exterior doors and windows of the U.S. Capitol were locked or otherwise secured. Members of the U.S. Capitol Police attempted to maintain order and keep the crowd from entering the U.S. Capitol; however, shortly around 2:00 p.m., individuals in the crowd forced entry into the U.S. Capitol, including by breaking windows and by assaulting members of the U.S. Capitol Police, as others in the crowd encouraged and assisted those acts.

Shortly thereafter, at approximately 2:20 p.m. members of the United States House of Representatives and United States Senate, including the President of the Senate, Vice President Mike Pence, were instructed to—and did—evacuate the chambers. Accordingly, the joint session of the United States Congress was effectively suspended until shortly after 8:00 p.m. Vice President Pence remained in the U.S. Capitol from the time he was evacuated from the Senate Chamber until the sessions resumed.


During national news coverage of the aforementioned events, video footage which appeared to be captured on mobile devices of persons present on the scene depicted evidence of

violations of local and federal law, including scores of individuals inside the U.S. Capitol building without authority to be there.

The facts in this Statement of Facts (“Affidavit”) come from my personal observations, my training and experience, and information obtained from other agents, witnesses, and agencies.

In response to the criminal activity in and around the U.S. Capitol grounds on January 6, 2021, and in effort to identify unknown subjects (“UNSUB”) involved in the criminal activity, WFO sought the assistance of the public with identifying UNSUBs by issuing Be-on-the-Lookouts (“BOLO”). The BOLO included a photograph of the UNSUB, a numerical identifier, and an assault on a federal officer (“AFO”) designation.


One of the UNSUBs sought by WFO for their involvement in the criminal activity in and around the U.S. Capitol grounds on January 6, 2021 was the individual originally depicted in Photographs #36, #37, and #94 in Figures 1 and 2 below.



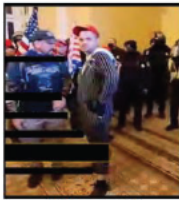
SEEKING INFORMATION

VIOLENCE AT THE UNITED STATES CAPITOL

**WASHINGTON, D.C.
JANUARY 06, 2021**



Photograph #36



Photograph #37

DETAILS


The Federal Bureau of Investigation’s (FBI) Washington Field Office is seeking the public’s assistance in identifying individuals who made unlawful entry into the United States Capitol Building on January 6, 2021, in Washington, D.C.

Anyone with information regarding these individuals, or anyone who witnessed any unlawful violent actions at the Capitol or near the area, is asked to contact the FBI’s Toll-Free Tipline at 1-800-CALL-FBI (1-800-225-5324) to verbally report tips. You may also submit any information, photos, or videos that could be relevant online at fbi.gov/USCapitol. You may also contact your local FBI office or the nearest American Embassy or Consulate.

Field Office: Washington D.C.

www.fbi.gov

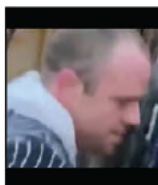




Figure 1.








SEEKING INFORMATION

ASSAULT ON FEDERAL OFFICERS AND VIOLENCE AT THE UNITED STATES CAPITOL

WASHINGTON, D.C.
JANUARY 6, 2021



Photograph #91-AFO



DETAILS

The Federal Bureau of Investigation's (FBI) Washington Field Office is seeking the public's assistance in identifying individuals who made unlawful entry into the United States Capitol Building and assaulted federal law enforcement personnel on January 6, 2021, in Washington, D.C.

Anyone with information regarding these individuals, or anyone who witnessed any unlawful violent actions at the Capitol or near the area, is asked to contact the FBI's Toll-Free Tipline at 1-800-CALL-FBI (1-800-225-5324) to verbally report tips. You may also submit any information, photos, or videos that could be relevant online at fbi.gov/USCapitol. You may also contact your local FBI office or the nearest American Embassy or Consulate.

When calling to provide a tip on one of these individuals, please reference the above photo number, including the AFO.

Field Office: Washington D.C.

www.fbi.gov

Figure 2.

All three BOLOs were subsequently consolidated under Photograph #94 – AFO seen in Figure 3.

SEEKING INFORMATION

ASSAULT ON FEDERAL OFFICERS AND VIOLENCE AT THE UNITED STATES CAPITOL
WASHINGTON, D.C.
JANUARY 6, 2021

DETAILS

The Federal Bureau of Investigation's (FBI) Washington Field Office is seeking the public's assistance in identifying individuals who made unlawful entry into the United States Capitol Building and assaulted federal law enforcement personnel on January 6, 2021, in Washington, D.C.

Anyone with information regarding these individuals, or anyone who witnessed any unlawful violent actions at the Capitol or near the area, is asked to contact the FBI's Toll-Free Tipline at 1-800-CALL-FBI (1-800-225-5324) to verbally report tips. You may also submit any information, photos, or videos that could be relevant online at fbi.gov/USCapitol. You may also contact your local FBI office or the nearest American Embassy or Consulate.

When calling to provide a tip on one of these individuals, please reference the above photo number, including the AFO.

Field Office: Washington D.C.

www.fbi.gov

Figure 3.

As described further below, there is probable cause to believe that during the rioting and civil disorder described herein, Josiah Kenyon entered and remained in the U.S. Capitol building, damaged property; specifically, an exterior window of the U.S. Capitol building exceeding the sum of \$1,000, and forcibly assaulted numerous law enforcement officers, including Metropolitan Police Department (“MPD”) officers, while engaged in their official duties with several objects, to include a deadly weapon; specifically, what appeared to be a table leg with a protruding nail.

DESCRIPTION AND IDENTIFICATION OF JOSIAH KENYON

I have reviewed video footage and photographs of Josiah Kenyon's criminal activity in and around the U.S. Capitol grounds on January 6, 2021. I observed Josiah Kenyon to be wearing a Jack Skellington costume from *The Nightmare before Christmas*, and, in some video footage and photographs, a red "Make America Great Again" baseball cap and black gloves. A video footage still of Josiah Kenyon can be observed in Figure 4 below.

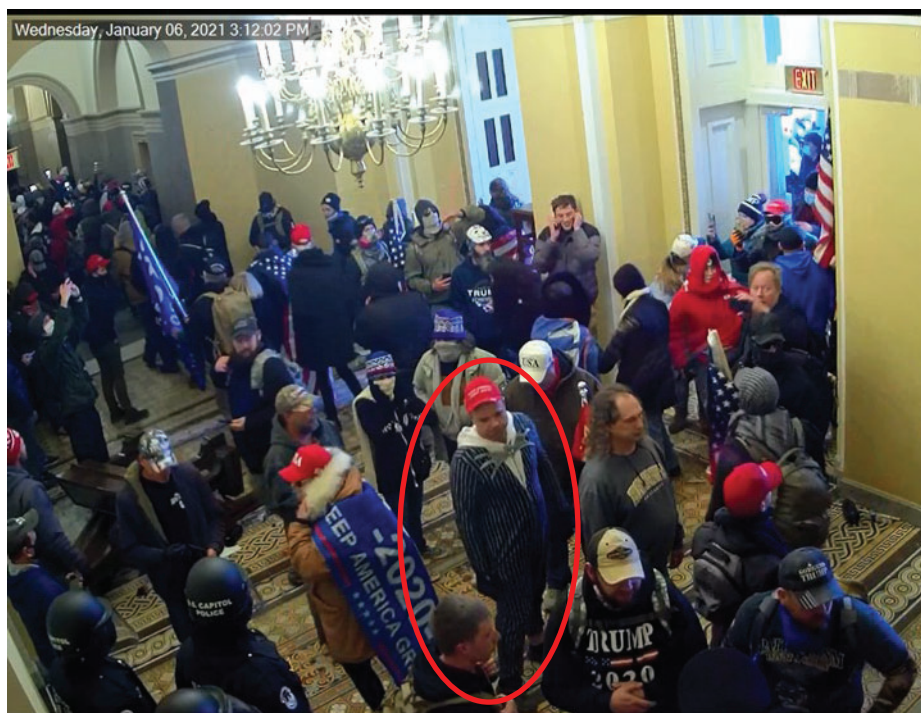


Figure 4.

On or around January 9, 2021, the FBI received a public tip submitted through the <http://www.fbi.gov/USCapitol> online portal from Witness 1 pertaining to Photograph #37 – AFO. See Figure 1.

On or around January 12, 2021, the FBI interviewed Witness 1 who stated that he/she encountered the person depicted in Photograph #37 – AFO while in and around the U.S. Capitol grounds, and later on the Washington Metro, on January 6, 2021. Witness 1 described Photograph #37 – AFO as wearing a Jack Skellington costume from *The Nightmare before Christmas*. Witness 1 also provided information that Photograph #37 – AFO was a guest of a specific motel in Springfield, Virginia.

I subsequently interviewed Witness 2 and Witness 3, employees of the motel in Springfield, Virginia, who confirmed a subject wearing a Jack Skellington costume from *The Nightmare before Christmas* was a guest on or around January 6, 2021.

I compared information provided by Witness 1, with information provided by the motel in Springfield, Virginia to possibly identify Photograph #94 - AFO (also depicted in Photographs #36 and #37) as Josiah Kenyon.

I also compared Josiah Kenyon's Arizona and California Department of Motor Vehicles photographs and a publicly available Facebook photograph with video footage and photographs from in and around the U.S. Capitol grounds on January 6, 2021 of the person believed to be depicted in Photograph #94 – AFO. Based on the comparison, Josiah Kenyon appeared to match the physical attributes of the person depicted in Photograph #94 – AFO.

On or around April 6, 2021, the FBI interviewed Witness 4 and Witness 5, who I believe to be of familial relationship to Josiah Kenyon. Witness 4 and Witness 5 were shown Photograph #94 – AFO. Witness 4 and Witness 5 positively identified Photograph #94 – AFO as Josiah Kenyon and confirmed a familial relationship. The photograph shown to Witness 4 and Witness 5 can be observed in Figure 5 below.

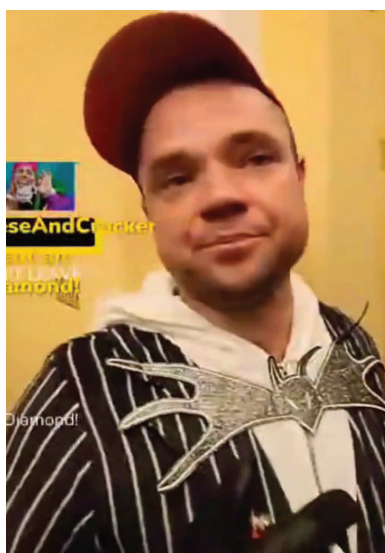


Figure 5.

On or about September 17, 2021, the Metro Transit Police Department (“MTPD”) identified the SmarTrip card, ending in 3929 (“the 3929 SmarTrip card”), used by Josiah Kenyon to access the Washington Metro on January 6, 2021. Further, MTPD identified the debit account number, ending in 3137, used to purchase the 3929 SmarTrip card.

I reviewed digital video provided by MTPD, and transactional records of the 3929 SmarTrip card provided by the Washington Metropolitan Area Transit Authority (“WMATA”) for January 6, 2021. WMATA records showed the 3929 SmarTrip card tagged onto the Washington Metro at L’Enfant Plaza at approximately 6:00pm and tagged off the Washington Metro at Franconia-Springfield at approximately 6:47pm.

I observed Josiah Kenyon at Washington Metro L’Enfant Plaza numerous times between approximately 6:02pm and 6:03pm. A video footage still of Josiah Kenyon at Washington Metro L’Enfant Plaza can be observed in Figure 6 below.

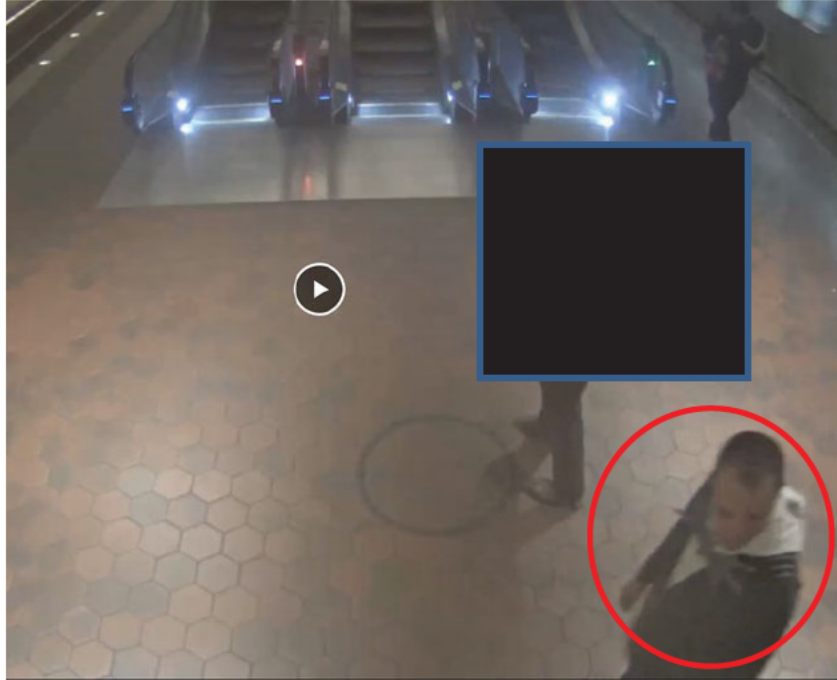


Figure 6.

I observed Josiah Kenyon at Washington Metro Franconia-Springfield numerous times between approximately 6:47pm and 6:48pm. A video footage still of Josiah Kenyon at Washington Metro Franconia-Springfield can be observed in Figure 7 below.



Figure 7.

I reviewed bank records of the debit account number ending in 3137, issued by Comerica Bank (“the 3137 Comerica Account”). Records showed, Josiah Kenyon was the sole signatory of the 3137 Comerica Account. Based on transactions, Josiah Kenyon was in the Northern Virginia and Washington metropolitan area between on or about January 4, 2021 and on or about January 7, 2021. For example, Josiah Kenyon made several point-of-sale transactions in Springfield, Virginia, the same location of the above referenced motel. Further, Josiah Kenyon made two point-of-sale transactions at Starbucks store number 09392, in Washington, D.C., on or about January 6, 2021. Based on open-source Internet and Google Maps information, Starbucks store number 09392 is approximately a .7 mile walk from the U.S. Capitol Building.

CRIMINAL ACTIVITY OF JOSIAH KEYON

As described further below, there is probable cause to believe that during the rioting and civil disorder described herein, Josiah Kenyon, captured on U.S. Capitol building closed-circuit television (“CCTV”), entered and remained in the U.S. Capitol building on January 6, 2021 from approximately 2:53 p.m. until 3:18 p.m. Josiah Kenyon was captured on CCTV near a Senate Wing door and the Crypt of the U.S. Capitol building. For reference, an overhead photograph of the U.S. Capitol building showing the general location of the Senate Wing circled in red in Figure 8 and the general location of the Crypt in Figure 9 below.

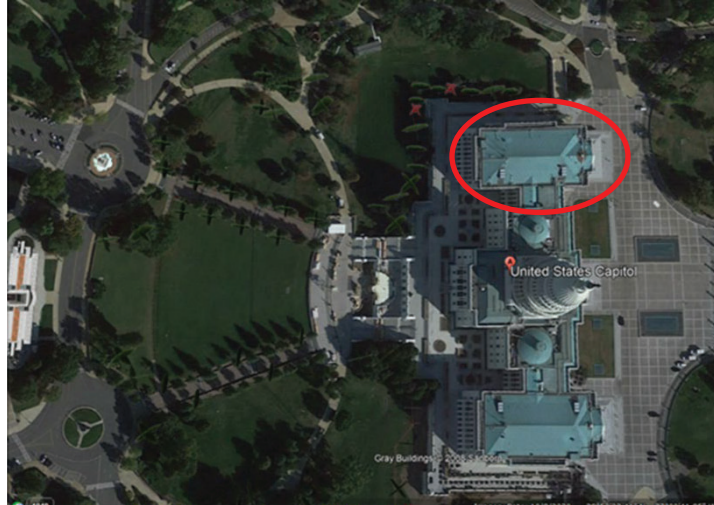


Figure 8.

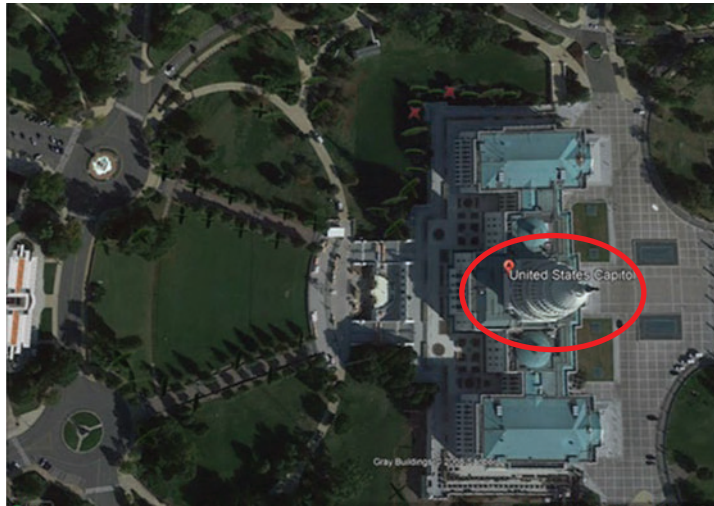


Figure 9.

I observed Josiah Kenyon on video in the Senate Wing during the date and times above. Video footage stills of Josiah Kenyon in the Senate Wing can be observed circled in red in Figure 10 and Figure 11 below.

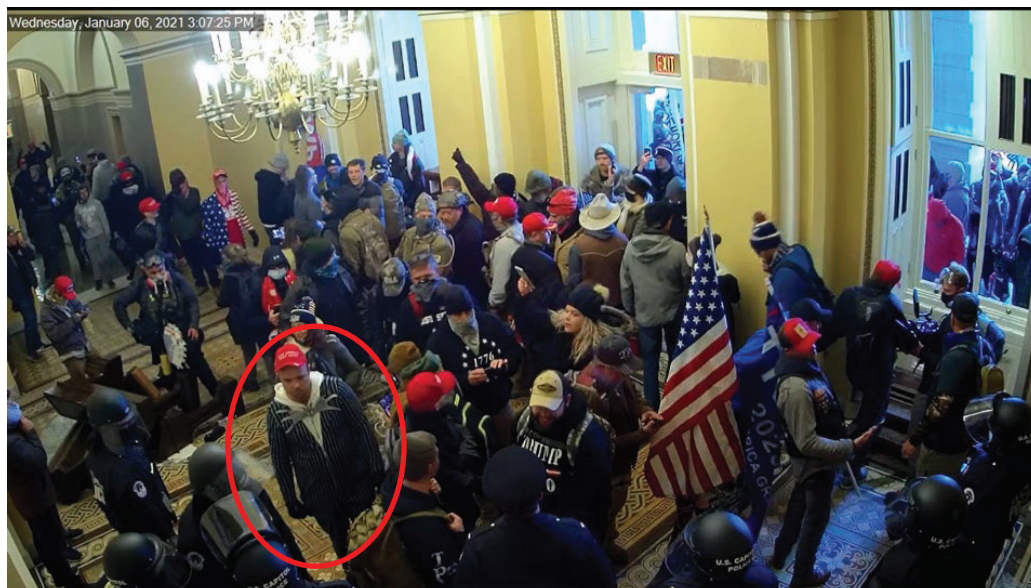


Figure 10.

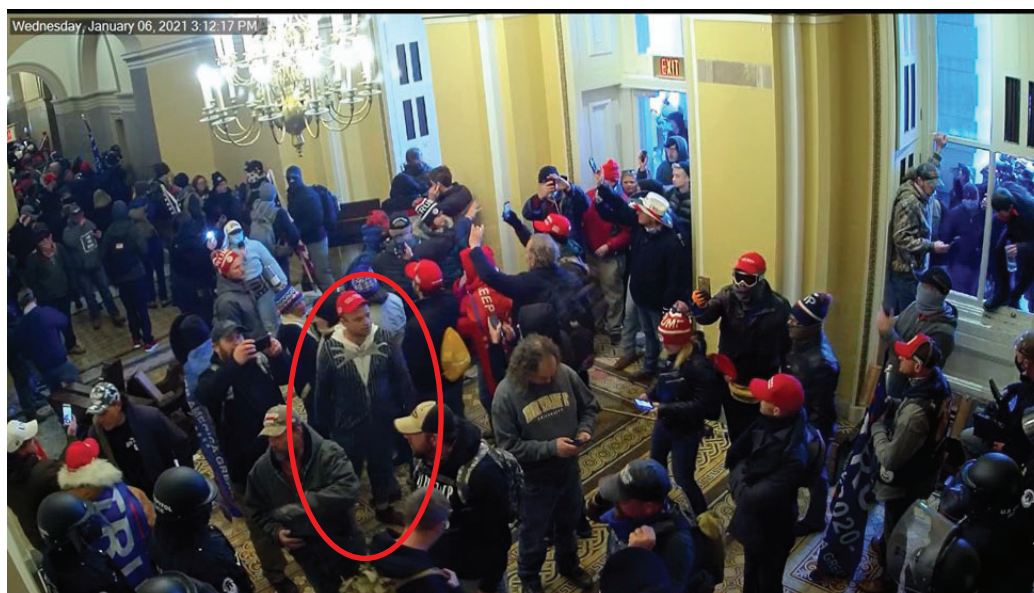


Figure 11.

I observed Josiah Kenyon in the Crypt during the date and times above. Video footage stills of Josiah Kenyon can be observed circled in red in Figure 12 and Figure 13 below.



Figure 12.



Figure 13.

As described further, there is probable cause to believe that during the rioting and civil disorder described herein, Josiah Kenyon, along with others, damaged an exterior window of the U.S. Capitol building. The cost to replace the damaged window was \$41,315.25, including, materials, labor, and installation. His actions were captured on video footage which appeared to be from a mobile device of a person present at the scene. Josiah Kenyon first attempts to break the window with a closed fist, followed by several attempts with what appear to be a flag staff. Video footage stills of Josiah Kenyon attempting to damage the window can be observed in Figure 14 and Figure 15 below.



Figure 14.



Figure 15.

As described further, there is probable cause to believe that during the rioting and civil disorder described herein, Josiah Kenyon, forcibly assaulted numerous law enforcement officers, including MPD officers while engaged in their official duties. He used several objects, to include a deadly weapon; specifically, what appeared to be a table leg with a protruding nail, in the Lower West Terrace of the U.S. Capitol building on January 6, 2021 from approximately 4:54 p.m. until 5:04 p.m. His actions were captured on U.S. Capitol building CCTV, Metropolitan Police Department (“MPD”) body-worn cameras (“BWC”), and what appeared to be mobile devices of

persons present on the scene. For reference, an overhead photograph of the U.S. Capitol building showing the approximate location of the Lower West Terrace can be observed in Figure 16.

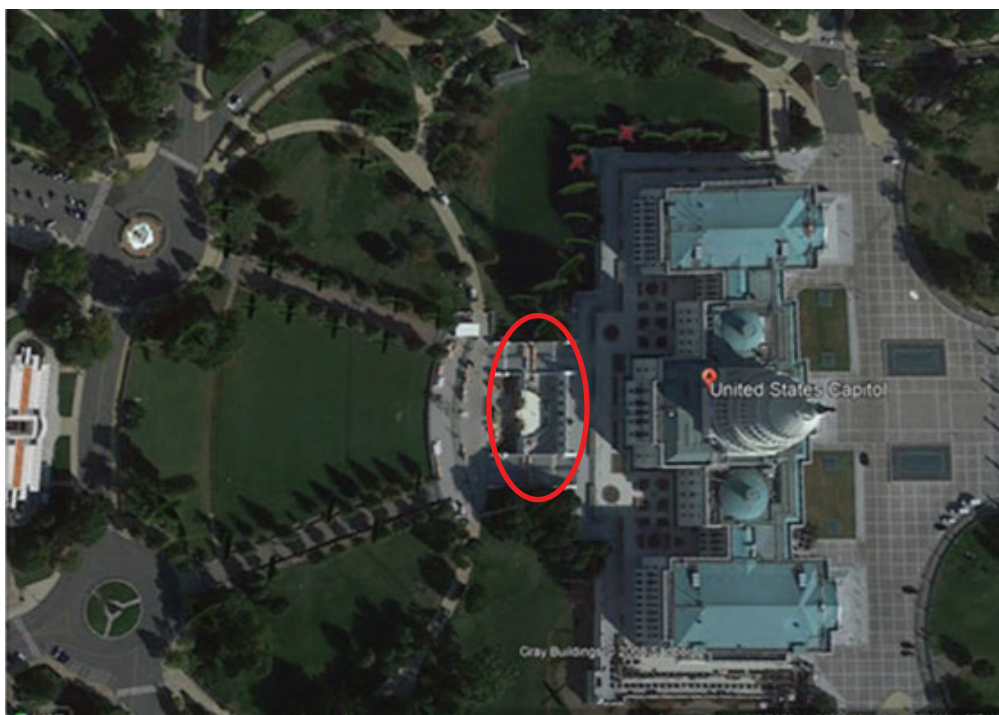


Figure 16.

I observed, from viewing U.S. Capitol building CCTV, Josiah Kenyon forcibly assault numerous MPD officers while engaged in their official duties. Video footage stills of Josiah Kenyon assaulting officers can be observed in Figures 17 through Figure 26 below.

For instance, in Figure 17, a CCTV video still, Josiah Kenyon is seen pushing an unknown white object towards officers at 4:56:18 pm.



Figure 17.

Josiah Kenyon throws another unknown object towards officers at 4:56:42 pm in another video still in Figure 18 below.



Figure 18.

Josiah Kenyon throws what appears to be a large, hard plastic pylon towards officers at 5:01:03 pm. A video footage still can be observed in Figure 19 below.



Figure 19.

I observed Josiah Kenyon with a deadly weapon; specifically, what appears to be a table leg with a protruding nail. I observed Josiah Kenyon strike officers with the table leg around 5:01:17 pm. Video footage stills of Josiah Kenyon with the table leg are in Figures 20 through 22 below.



Figure 20.



Figure 21.



Figure 22.

Josiah Kenyon throws another unknown object towards officers at 5:02:00 pm in a video footage still in Figure 23 below.



Figure 23.

I again observed Josiah Kenyon with a deadly weapon; specifically, what appeared to be a table leg with a protruding nail at 5:02:38 pm. Josiah Kenyon strikes officers with the table leg. Video footage stills can be observed in Figure 24 and Figure 25 below.



Figure 24.



Figure 25.

I once again observed Josiah Kenyon throw an unknown object towards officers at 5:03:30 pm. A video footage still can be observed in Figure 26 below.



Figure 26.

In addition to CCTV, I also reviewed MPD BWC of Victim 1. Josiah Kenyon forcibly assaults numerous MPD officers while engaged in their official duties, including Victim 1. Figure 27 through Figure 36 below are from Victim 1's BWC. Josiah Kenyon uses a deadly weapon; specifically, what appears to be a table leg with a protruding nail, as described above. Josiah Kenyon strikes Victim 1 multiple times with the table leg between approximately 5:02:10 pm and 5:03:29 pm in Figures 27 through 36.

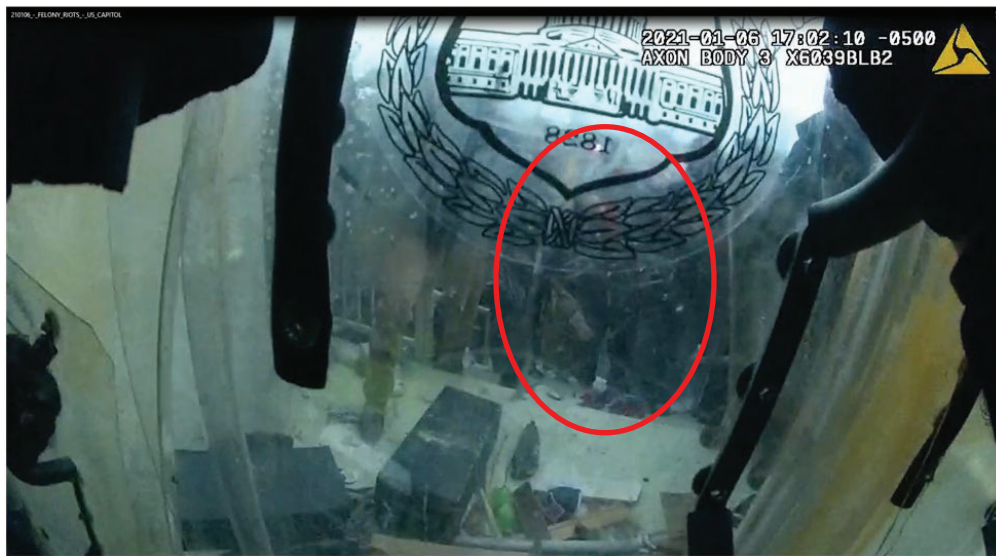


Figure 27.



Figure 28.



Figure 29.



Figure 30.



Figure 31.



Figure 32.



Figure 33.



Figure 34.



Figure 35.

I further observed Josiah Kenyon throw an unknown object towards Victim 1 in a video footage still in Figure 36.



Figure 36.

I also reviewed the MPD BWC of Victim 2 and again observed Josiah Kenyon forcibly assaulting numerous MPD officers while they were engaged in their official duties including Victim 2. Video footage stills from Victim 2's BWC showing Josiah Kenyon assaulting officers, including Victim 2, can be observed in Figures 37 through 42.

For instance, in Figure 37 I observed Josiah Kenyon push an unknown object that appears to be the same object seen in Figure 17 towards officers.



Figure 37.

I observed Josiah Kenyon throw what appeared to be a large pylon that appears to be the same pylon seen in Figure 19 towards officers, directly striking Victim 2's anti-riot shield. Figure 38 is a video footage still showing Josiah Kenyon throwing the pylon.



Figure 38.

I observed Josiah Kenyon with a deadly weapon; specifically, what appears to be a table leg with a protruding nail in Figure 39. The video is from a different angle, but shows the same actions seen in Figures 27 through 35.



Figure 39.

In Figure 40, Josiah Kenyon throws an unknown object towards officers. The video is from a different angle, but shows the same actions seen in Figure 36.



Figure 40.

Finally, in reviewing Victim 2's BWC, I again observed Josiah Kenyon with a deadly weapon; specifically, what appeared to be a table leg with a protruding nail. Josiah Kenyon strikes

officers, including Victim 1, with the table leg at approximately 5:02:12. Figures 41 and 42 depict the same actions seen in Figures 27 through 35.



Figure 41.



Figure 42.

I reviewed open-source video from mobile devices of persons that appear to have been present at the U.S. Capitol on January 6, 2021. In the videos, Josiah Kenyon forcibly assaults numerous officers, including MPD officers, while engaged in their official duties.

For instance, in Figures 43 through 48, I again observed Josiah Kenyon with the deadly weapon -- what appeared to be a table leg with a protruding nail -- striking officers with the table leg. These videos appear to coincide with the video seen in Figures 27 through 35, and 39.



Figure 43.



Figure 44.



Figure 45.



Figure 46.



Figure 47.



Figure 48.

Additional open-source video shows Josiah Kenyon throwing an unknown object towards officers in video footage still observed in Figure 49. Figure 49 appears to coincide with the video stills in Figure 23.



Figure 49.

Additional open-source video shows Josiah Kenyon throwing another unknown object toward officers seen in the below video footage still in Figure 50.



Figure 50.

Additional open-source video shows Josiah Kenyon throwing another unknown object toward officers as observed in the below video footage still in Figure 51. Figure 51 appears to coincide with the video stills in Figures 17 and 37.



Figure 51.

Additional open-source video shows Josiah Kenyon throwing the same pylon seen in Figures 19 and 38 toward officers. Figure 52 is a video still of the open-source video.



Figure 52.

On March 18, 2021, in effort to seek the public's help to identify UNSUBs, WFO released videos of assaults on officers in and around the U.S. Capitol grounds on January 6, 2021. One of the videos released was of Photograph #94 – AFO, now identified as Josiah Kenyon. The video shows Josiah Kenyon forcibly assaulting officers with the deadly weapon; specifically, with what

appeared to be a table leg with a protruding nail as seen in Figures 20-22, 24-25, 27-35, 39, 41-48. The video footage stills in Figure 53 – Figure 56 below show Josiah Kenyon strike a riot-gear clad officer in the head (Victim 1) with the deadly weapon. I observed that the protruding nail appears to become momentarily stuck in the opening between the top of the officer's face shield and the helmet, which then lifted the face shield.



Figure 53.

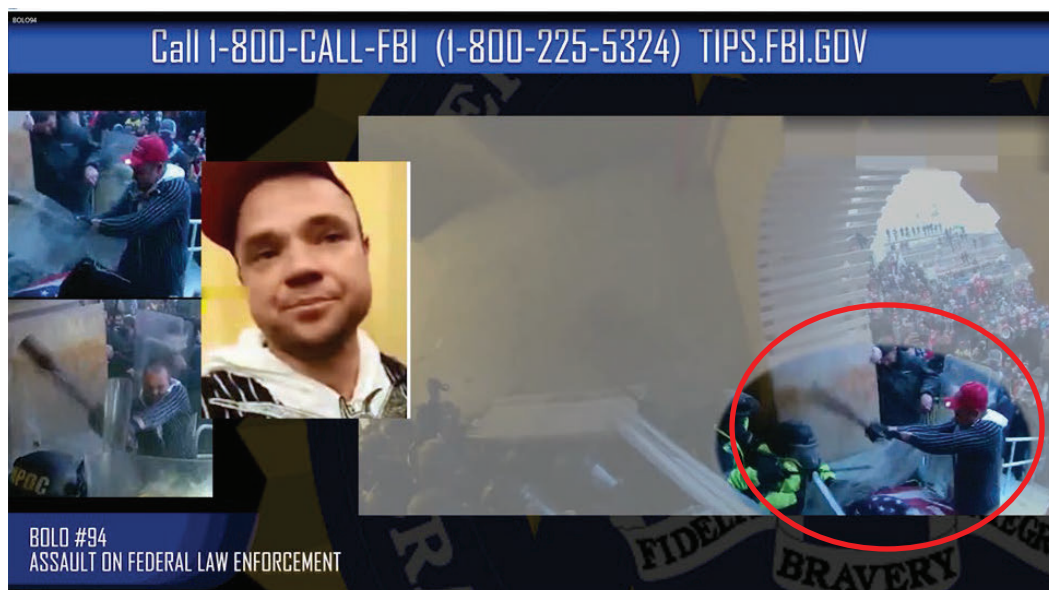


Figure 54.

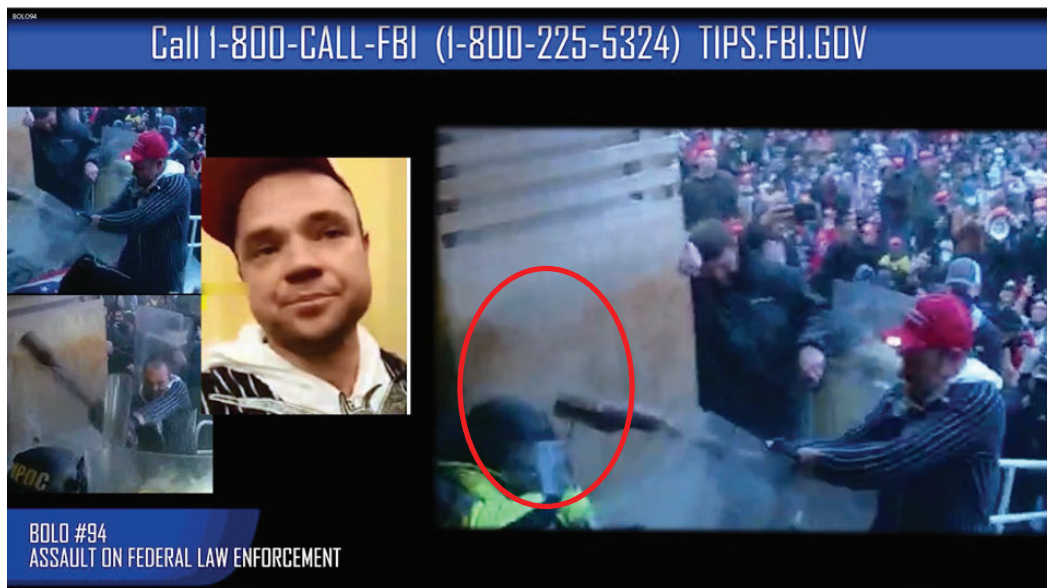


Figure 55.

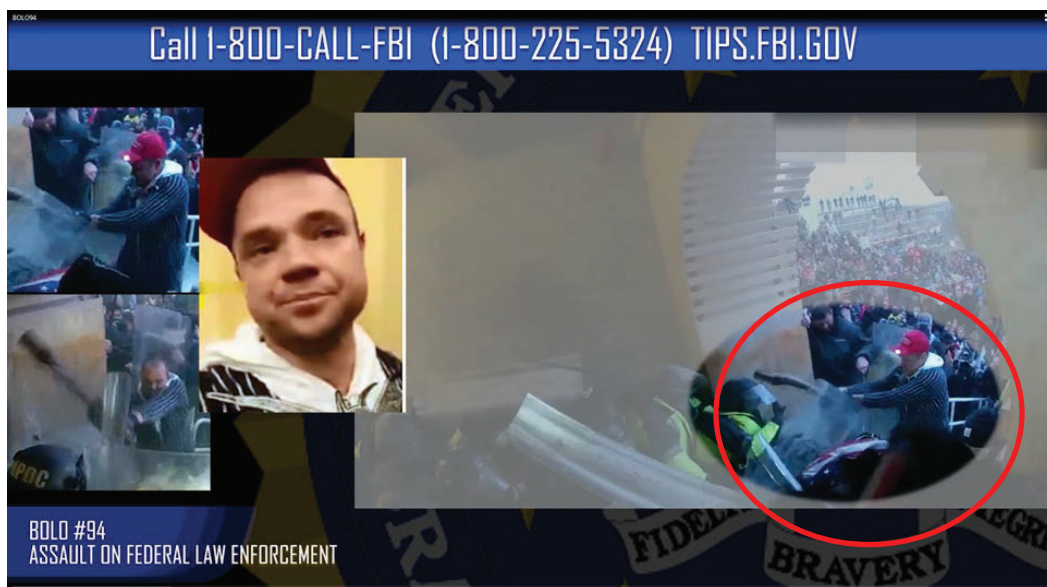


Figure 56.

In the same video, Josiah Kenyon holds the chair leg in his right hand and repeatedly strikes the palm of his left hand with chair leg. In my experience, this gesture is meant to intimidate others with threat of force or violence. A video footage still of this behavior is in Figure 57.



Figure 57.

In the same video, Josiah Kenyon was again observed striking other officers with the chair leg. A video footage still can be observed in Figure 58 below.



Figure 58.

Based on the foregoing, I submit there is probable cause to believe that Josiah Kenyon violated 18 U.S.C. § 231(a)(3), which makes it unlawful to commit or attempt to commit any act to obstruct, impede, or interfere with any fireman or law enforcement officer lawfully engaged in the lawful performance of his official duties incident to and during the commission of a civil disorder which in any way or degree obstructs, delays, or adversely affects commerce or the movement of any article or commodity in commerce or the conduct or performance of any federally protected function. For purposes of Section 231 of Title 18, a federally protected function

means any function, operation, or action carried out, under the laws of the United States, by any department, agency, or instrumentality of the United States or by an officer or employee thereof. This includes the Joint Session of Congress where the Senate and House count Electoral College votes.

I submit there is probable cause to believe that Josiah Kenyon violated 18 U.S.C. § 1361, by willfully attempting and injuring or depredating any property of the United States with a monetary value of \$41,315.25.

I submit there is probable cause to believe that Josiah Kenyon violated 18 U.S.C. § 111(a)(1) and (b), which makes it a crime to forcibly assault, resists, oppose, impede, intimidate, or interfere with an officer of the United States while engaged in or on account of the performance of official duties. Whoever, in the commission of any acts described (a), uses a deadly or dangerous weapon (including a weapon intended to cause death or danger but that fails to do so by reason of a defective component) or inflicts bodily injury.


I further submit that there is probable cause to believe that Josiah Kenyon violated 18 U.S.C. § 1752(a)(1) and (2), which makes it a crime to (1) knowingly enter or remain in any restricted building or grounds without lawful authority to do; and (2) knowingly, and with intent to impede or disrupt the orderly conduct of Government business or official functions, engage in disorderly or disruptive conduct in, or within such proximity to, any restricted building or grounds when, or so that, such conduct, in fact, impedes or disrupts the orderly conduct of Government business or official functions; (4) knowingly engages in any act of physical violence against any person or property in any restricted building or grounds; or attempts or conspires to do so. For purposes of Section 1752 of Title 18, a “restricted building” includes a posted, cordoned off, or otherwise restricted area of a building or grounds where the President or other person protected by the Secret Service, including the Vice President, is or will be temporarily visiting; or any building or grounds so restricted in conjunction with an event designated as a special event of national significance.

I finally submit there is probable cause to believe that Josiah Kenyon violated 40 U.S.C. § 5104(e)(2)(D) and (F), which makes it a crime to willfully and knowingly (D) utter loud, threatening, or abusive language, or engage in disorderly or disruptive conduct, at any place in the Grounds or in any of the Capitol Buildings with the intent to impede, disrupt, or disturb the orderly conduct of a session of Congress or either House of Congress, or the orderly conduct in that

building of a hearing before, or any deliberations of, a committee of Congress or either House of Congress; and (F) engage in an act of physical violence in the Grounds or any of the Capitol Buildings.

[REDACTED]
[REDACTED]
Special Agent
Federal Bureau of Investigation

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 23rd day of November 2021.



Zia M. Faruqui
2021.11.23
20:03:49 -05'00'

ZIA M. FARUQUI
U.S. MAGISTRATE JUDGE